

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLANDBILL NO. 97-6Introduced by Council President Parrott at the request of the County Executive
Legislative Day No. 97-3 Date January 21, 1997

AN ACT to repeal and reenact, with amendments, Subsection 267-41.1, Chesapeake Bay Critical Overlay District, of Article VI, District Regulations, of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended; to address the State-mandated Comprehensive Review of the Chesapeake Bay Critical Area Management Program; to comprehensively revise the Harford County Critical Area Program; and generally relating to the County's Chesapeake Bay Critical Area Management Program.

By the Council, January 21, 1997

Introduced, read first time, ordered posted and public hearing scheduled

on: February 18, 1997at: 6:45 p.m.By Order: James D. Vannoy /mkh, Acting Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on February 18, 1997 and concluded on, February 18, 1997.

James D. Vannoy, Acting Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

1 Section 1. Be It Enacted By The County Council of Harford County, Maryland, that Subsection
2 267-41.1, Chesapeake Bay Critical Area Overlay District, of Article VI, District Regulations, of Part
3 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended, be and is hereby
4 repealed and reenacted, with amendments; all to read as follows:

5 Chapter 267. Zoning

6 Part 1. Standards

7 Article VI. District Regulations.

8 § 267-41.1 Chesapeake Bay Critical Area Overlay District.

9 A. Purpose and intent. The State of Maryland has recognized the Chesapeake Bay as an
10 estuarine system of great importance to the state and to the nation as a whole. As such, it has enacted
11 the Chesapeake Bay Critical Area Act (Chapter 794, Laws of 1984, as amended) and the Chesapeake
12 Bay Critical Area Program Development Criteria pursuant to that Act, which require that local
13 jurisdictions implement a management and resource protection program for those areas within one
14 thousand (1,000) feet of tidal waters and tidal wetlands and any additional areas that a local jurisdiction
15 deems important to carry out the purpose of the Act. Harford County also recognizes the importance
16 of protecting the resources of the Chesapeake Bay and hereby establishes that the goals of this
17 management program are to:

18 (1) Minimize adverse impacts on water quality resulting from sedimentation and
19 stormwater runoff from development in the coastal areas of the County.

20 (2) Conserve fish, wildlife and plant habitat.

21 (3) Maintain and, if possible, increase the amount of forested area in the County's
22 coastal areas because of its benefits to water quality and plant and wildlife habitat.

23 (4) Minimize the adverse secondary impacts of development occurring in the
24 coastal areas of the County.

25 (5) Monitor and control development in the County's Critical Area so that the
26 natural resources of the Chesapeake Bay, its tidal tributaries and their shoreland areas will be protected

1 and preserved for future generations.

2 B. Creation. In order to carry out the provisions of this resource protection and
3 management program, a Critical Area overlay district is hereby established, in conjunction with
4 existing zoning regulations and districts which shall apply to all development and redevelopment within
5 the County's Critical Area. The regulations of the overlay district are intended to foster
6 environmentally sensitive development within the County's Critical Area by setting forth standards
7 requiring the minimization of adverse impacts on water quality and protection of the natural plant, fish
8 and wildlife habitats in the County's Chesapeake Bay Critical Area. The management program
9 developed for land areas lying within the overlay district shall be the County's Master Plan for such
10 areas.

11 C. Application. The requirements of the Critical Area Overlay District shall apply to all
12 areas shown on each Zoning Map Overlay, to include, at a minimum, all areas within 1,000 feet of
13 tidal waters and State or private wetlands and the heads of tides designated under Title 9 of the Natural
14 Resources Article, and such additional areas as designated to meet the purpose of the district. The
15 overlay district as shown on each Zoning Map Overlay is further divided into three (3) separate land
16 use management categories for the purposes of planning, regulating and monitoring the type and
17 intensity of land use development and redevelopment activities occurring within the County's Critical
18 Area. The three (3) land use management categories are as follows:

- 19 (1) Intensely developed areas (IDA).
20 (2) Limited development area (LDA).
21 (3) Resource conservation areas (RCA).

22 D. Soil types. Soil types in Harford County's Critical Area with development constraints
23 are set forth in Table XVI, attached hereto and incorporated herein by reference as part of this section
24 as though it were fully stated herein.

25 E. Prohibited uses.

- 26 (1) The following uses shall be prohibited within this overlay district:

- 1 (a) New or expanded sanitary landfills and rubble landfills.
- 2 (b) New or expanded solid or hazardous waste collection or disposal
- 3 facilities.
- 4 (c) New storage tanks for vehicle fuels on residential lots.
- 5 (2) All existing facilities of these types shall be operated in conformance with all
- 6 applicable county, state and federal regulations.

7 F. Regulation of uses in the Critical Area Overlay District.

8 (1) Existing zoning. Unless otherwise specified in this section, the rights and

9 limitations pertaining to the use of the land as specified in this Zoning Code shall remain in effect,

10 subject to compliance with any additional requirements of this section.

11 (2) This section supplements existing County zoning and other regulations

12 governing development in the Critical Area and is superimposed upon all existing zones and land use

13 activity specified in this section. All development or redevelopment activity must conform to the

14 existing zoning regulations, to the development regulations specified in the subdivision regulations and

15 to the special conditions and regulations set forth in this section. In the event of conflicts between

16 existing zoning regulations, subdivision regulations and other overlay district regulations and this

17 section, the more restrictive section shall apply.

18 (3) Development activities. Permitted development activities are regulated in

19 accordance with the following standards for the specific management area categories within which such

20 activities are proposed:

- 21 (a) Intensely developed areas (IDA).
- 22 (1) Pollutant loadings associated with the new development or
- 23 redevelopment in an IDA shall be reduced by a minimum of ten percent (10%) from predevelopment
- 24 levels through the use of on-site stormwater management/best management practices or similar
- 25 measures located off site. The procedures contained in technical reports entitled "Applicant's Guide
- 26 for 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland Chesapeake Bay

1 Critical Area in IDA, and the Technical Guide for 10% Rule Compliance - Urban Stormwater Quality
2 Guidance for the Maryland Chesapeake Bay Critical Area in Intensively Developed Areas (IDA)"
3 (Appendix C of the Harford County Chesapeake Bay Critical Area Management Program, as amended)
4 shall be used to determine the amount of reduction required and what specific measures are needed to
5 meet this requirement.

6 (2) Pollutant loadings associated with construction outside of the
7 Critical Area Buffer of accessory structures and minor additions that increase the total impervious
8 surfaces by greater than 250 square feet on residential lots of record as of 12/31/85 in the IDA shall
9 be mitigated by the use of stormwater management/best management practices (BMPs) as specified
10 in Appendix C, as amended, and/or through the use of additional landscaped plantings on that lot or
11 parcel.

12 (a) BMPs are specified in the "The Applicant's Guide for
13 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland Chesapeake Bay
14 Critical Area in Intensively Developed Areas (IDA)" (Appendix C of the Harford County Chesapeake
15 Bay Critical Area Management Program, as amended).

16 (b) Mitigative plantings shall be permeable areas equal to
17 or greater in area than the increase of impervious surfaces, shall be planted with at least one tree per
18 100 square feet of impervious surface added to the lot, and shall be established and maintained in
19 accordance with a landscaping plan and covenant as approved by the Department of Planning and
20 Zoning. Where possible, such new plantings should be located between the new construction and
21 surface waters. Tree plantings shall be of native species.

22 (c) If mitigative landscaping and/or BMPs are not feasible
23 as determined by the Zoning Administrator, the applicant is required to pay a fee in lieu of \$1.20 per
24 square foot of additional impervious surfaces. Monies contributed under this section shall be deposited
25 in a separate account, and shall be used according to G(4)(a)(10)(f)(iv) of this section, and shall not
26 revert to the general fund.

1 (d) Construction of accessory structures which cover less
2 than 250 square feet are exempt from mitigative planting requirements.

3 (3) Unless determined to be technically infeasible by the Zoning
4 Administrator in consultation with the Director of the Department of Public Works and the Harford
5 County Soil Conservation District, permeable areas shall be established and maintained in vegetation
6 in accordance with a landscaping plan approved by the Department of Planning and Zoning.

7 (4) Development shall be designed and constructed so as to
8 minimize the destruction of existing forest vegetation.

9 (5) Existing areas of public access to the shoreline shall be
10 maintained. If possible, the establishment of new areas of public access to the shoreline shall be
11 included in the plans for development or redevelopment of shoreline areas.

12 (6) Cluster development, as defined in this section, shall be used
13 in developing in the IDA as a means of minimizing the amount of impervious surface area and the
14 destruction of existing natural vegetation unless it is determined by the Zoning Administrator to be
15 infeasible or inappropriate for a specific site. This requirement does not supersede the requirements
16 of §267-46 pertaining to conventional with open space (COS) and planned residential development
17 (PRD).

18 (b) Limited development areas (LDA).

19 (1) Pollutant loadings associated with development in the LDA are
20 to be maintained at predevelopment levels through the use of stormwater management/best
21 management practices specified in "The Applicant's Guide for 10% Rule Compliance - Urban
22 Stormwater Quality Guidance for the Maryland Chesapeake Bay Critical Area in IDA, and the
23 Technical Guide for 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland
24 Chesapeake Bay Critical Area in IDA." (Appendix C of the Harford County Chesapeake Bay Critical
25 Area Management Program, as amended).

26 (2) Man-made impervious surfaces shall not exceed fifteen percent

1 (15%) of the PORTION OF THE lot or parcel WITHIN THE CRITICAL AREA proposed to be
2 developed, except for the following:

3 (a) If a parcel or lot one-half acre or less in size [was in
4 residential use or zoned for residential purposes] EXISTED on or before December 1, 1985, then man-
5 made impervious surfaces [associated with residential use] may not exceed twenty-five percent (25%)
6 of the PORTION OF THE parcel or lot WITHIN THE CRITICAL AREA.

7 (b) [If a parcel or lot one-fourth acre or less in size was in
8 non-residential use on or before December 1, 1985, then man-made impervious surfaces associated
9 with new development or redevelopment may not exceed twenty-five percent (25%) of the parcel or
10 lot.] IF A PARCEL OR LOT GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE
11 IN SIZE EXISTED ON OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS
12 SURFACES ARE LIMITED TO 15% OF THE PORTION OF THE PARCEL OR LOT WITHIN
13 THE CRITICAL AREA.

14 (c) On lots less than or equal to one (1) acre in size located
15 in subdivisions approved after December 1, 1985, man-made impervious surfaces may not exceed
16 twenty-five percent (25%) of the PORTION OF THE lot WITHIN THE CRITICAL AREA.
17 However, the total of the impervious surfaces over the entire subdivision may not exceed fifteen
18 percent (15%) OF THE PORTION OF THE LOT WITHIN THE CRITICAL AREA.

19 (d) Section F(3)(b)(2)(a)-(c) does not apply to a mobile home
20 park in residential use on or before December 1, 1985.

21 (e) LIMITATIONS ON IMPERVIOUS SURFACES
22 PROVIDED IN SUBSECTION F(3)(b)(2)(a) and (b) OF THIS SECTION MAY BE EXCEEDED IF
23 THE FOLLOWING CONDITIONS EXIST:

24 (i) NEW IMPERVIOUS SURFACES ON THE
25 PROPERTY HAVE BEEN MINIMIZED.

26 (ii) FOR A LOT OR PARCEL ONE-HALF ACRE

1 OR LESS IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS
2 SURFACE LIMITS IN SUBSECTION F(3)(b)(2) OF THIS SECTION BY MORE THAN 25% OF
3 THE IMPERVIOUS SURFACE LIMITATION OR 500 SQUARE FEET, WHICHEVER IS
4 GREATER.

5 (iii) FOR A LOT OR PARCEL GREATER THAN
6 ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE, TOTAL IMPERVIOUS SURFACES
7 DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN SUBSECTION F(3)(b)(2)(a) and (b) OF
8 THIS SECTION OR 5,445 SQUARE FEET, WHICHEVER IS GREATER.

9 (iv) WATER QUALITY IMPACTS ASSOCIATED
10 WITH RUNOFF FROM THE NEW IMPERVIOUS SURFACES CAN BE AND HAVE BEEN
11 MINIMIZED THROUGH MITIGATIVE PLANTINGS OR USE OF BEST MANAGEMENT
12 PRACTICES LISTED IN APPENDIX C OF THE HARFORD COUNTY CHESAPEAKE BAY
13 CRITICAL AREA MANAGEMENT PROGRAM, AS AMENDED.

14 (v) MITIGATIVE PLANTINGS SHALL BE
15 PERMEABLE AREAS EQUAL TO OR GREATER IN AREA THAN THE INCREASE OF
16 IMPERVIOUS SURFACES. THESE AREAS SHALL BE PLANTED WITH AT LEAST ONE
17 TREE PER 100 SQUARE FEET, OR ONE SHRUB PER 10 SQUARE FEET OF IMPERVIOUS
18 SURFACE ADDED TO THE LOT OR PARCEL AND ESTABLISHED AND MAINTAINED IN
19 ACCORDANCE WITH A LANDSCAPING PLAN AS APPROVED BY THE DEPARTMENT OF
20 PLANNING AND ZONING. WHERE POSSIBLE, SUCH NEW PLANTINGS SHOULD BE
21 LOCATED BETWEEN THE NEW CONSTRUCTION AND SURFACE WATERS. MITIGATIVE
22 PLANTINGS SHALL BE OF NATIVE SPECIES.

23 (vi) IF MITIGATIVE PLANTINGS AND/OR BMPS
24 ARE NOT FEASIBLE AS DETERMINED BY THE ZONING ADMINISTRATOR, THE
25 APPLICANT IS REQUIRED TO PAY A FEE IN LIEU OF \$1.20 PER SQUARE FOOT OF
26 ADDITIONAL IMPERVIOUS SURFACES. MONIES CONTRIBUTED UNDER THIS SECTION

1 SHALL BE DEPOSITED IN A SEPARATE ACCOUNT, AND SHALL BE USED ACCORDING
2 TO G(4)(a)(10)(f)(iv) OF THIS SECTION. THESE MONIES SHALL NOT REVERT TO THE
3 GENERAL FUND.

4 (3) No development shall be permitted on slopes greater than fifteen
5 percent (15%).

6 (4) Development on soils with development constraints, i.e., highly
7 erodible soils, hydric soils less than forty thousand (40,000) square feet in extent, soils with severe
8 septic constraints and soils with hydric inclusions as listed in Table XVI of this section, shall be
9 restricted. The Zoning Administrator may permit development on such soils if adequate mitigation
10 measures are applied to address the identified constraints and to avoid significant adverse impacts on
11 water quality or fish, plant and wildlife habitats.

12 (5) The removal and replacement of existing forest cover for
13 development in an LDA area shall meet the following conditions:

14 (a) Area to be cleared. On a wooded development site, no
15 more than twenty percent (20%) of the forest cover may be cleared provided that the remaining 80%
16 is maintained through recorded restrictive covenants or similar instruments. This cover must be
17 replaced on a one-to-one square-footage basis, rounded to the nearest one hundred (100) square feet.
18 An additional ten percent (10%) of the forest cover may be cleared, provided that replacement of the
19 total forested area disturbed is made on one-to-one-and-five-tenths (1:1.5) square-footage basis.
20 Unless no forest will be disturbed by the development, a forest stand delineation is required for any
21 development within the Critical Area in which forest covers an area greater than 40,000 square feet.
22 The forest stand delineation shall be prepared according to the standards presented in Chapter 4 of the
23 Harford County Forest Cover Conservation and Replacement Manual.

24 (b) Replacement of forest cover. The forest cover removed
25 shall be replaced elsewhere on the same site or on another parcel within the Critical Area. If the
26 replacement is not practical at the time of removal, the Zoning Administrator may approve the

1 payment of a forest replacement fee of [\$1.20] \$0.40 per square foot area of forest cleared and not
2 otherwise mitigated in lieu of the actual planting. Monies contributed under this section shall be
3 deposited in a separate account, and shall be used according to G(4)(a)(10)(f)(iv) of this section, and
4 shall not revert to the general fund.

5 (c) Forest conservation plan. The removal and replacement
6 of forest cover for development must be undertaken as specified in an approved forest conservation
7 plan developed in accordance with procedures specified in the Forest Management Guide (Appendix
8 F, of the Harford County Chesapeake Bay Critical Area Management Program as amended). For
9 properties requiring subdivision approval, forest conservation plans shall be submitted along with the
10 preliminary plan. For all other projects, forest conservation plans shall be submitted to the
11 Department of Planning and Zoning for review and approval prior to application for a grading permit.

12 (d) Covenant and surety required. To ensure that all
13 afforested or reforested areas required by this section are completed in accordance with approved forest
14 conservation plans and are adequately preserved and maintained after installation, a surety shall be
15 deposited and a covenant recorded with Harford County. Grading permits will not be issued until the
16 covenant and surety have been accepted by the County. The covenant shall be established between the
17 County and the owner of the property which shall establish and protect the afforested or reforested
18 areas from future development activities. The amount of the surety shall be equal to one hundred and
19 ten percent (110%) of the value of \$0.40 per square foot of planting required. The surety will be held
20 until the forested area established meets or exceeds standards specified in the Forest Management
21 Guide. If more than 25% of the plantings in the afforested or reforested area die within the first two
22 growing seasons after planting, these must be replaced with new stock. If after two (2) complete
23 growing seasons from the time of planting, all components of the project meet or exceed the standards
24 as determined by an inspection by the Department of Planning and Zoning and at least 75% of the
25 planted trees have survived, two-thirds (2/3) of the surety will be returned. The remainder will be
26 released if, after the third growing season, all standards are met. If however, additional plantings are

1 required to replace more than 25% of the original plantings which did not survive, the surety shall be
2 held an additional three years from the time of the last planting.

3 (e) Timing of payment. The forest replacement fees shall
4 be paid prior to any clearing of the forest cover on a development site. If not paid previously, the
5 forest replacement fee shall be due and payable at the time of issuance of a grading permit for a site.

6 (f) Trust fund. Forest replacement fees shall be paid to the
7 Harford County Department of the Treasury and maintained in the Harford County Critical Area
8 Forestry Trust Fund account, which shall be administered by the Harford County Department of
9 Planning and Zoning. Expenditure of such funds shall be solely for the purpose of afforestation and
10 reforestation of areas in the Critical Area, whether on public or private lands.

11 (6) If a development site is unforested, a minimum of fifteen percent
12 (15%) of the site shall be afforested. If the afforestation comprises an area of one (1) acre or greater,
13 a forest conservation plan, financial surety, and covenant as specified in Subsection F(3)(b)(5)(c) and
14 [d] of this section shall be required. For afforestation of areas less than one (1) acre in size, plantings
15 shall be installed according to the guidelines contained in the Forest Management Guide (Appendix
16 F).

17 (7) All development plans shall incorporate a wildlife corridor
18 system that connects the largest, most undeveloped or most vegetated tracts of land within and adjacent
19 to the site, thereby providing a continuity of existing on-site and off-site plant and wildlife habitats.

20 (8) Cluster development shall be used for developing in the LDA
21 as a means of minimizing the amount of impervious surface area and the destruction of existing natural
22 vegetation, unless it is determined by the Zoning Administrator to be infeasible or inappropriate for
23 a specific site. This requirement does not supersede the requirements of §267-46 pertaining to
24 conventional development with open space (COS) and planned residential development (PRD).

25 (c) Resource conservation areas (RCA).

1 (1) Agriculture, forestry and areas of natural habitat shall be
2 considered preferred land uses within this area.

3 (2) New industrial and commercial development shall be prohibited.

4 (3) New residential development shall be permitted at a maximum
5 density of one (1) dwelling unit per twenty (20) acres. One (1) residential structure shall be permitted
6 on any existing undeveloped parcel regardless of the density requirement, provided that all other
7 provisions of this section are met.

8 (4) The requirements and standards for development activities in
9 the RCA designation shall be the same as for developments in the LDA designation.

10 (d) Forest clearing violation.

11 (1) Clearing of forested areas greater than 5000 square feet
12 anywhere within the Critical Area, other than as set forth in this section prior to issuance of a grading
13 permit, or of areas exceeding the maximum amount allowed by this section constitutes a violation of
14 this section in addition to any other applicable county regulations. Afforestation/reforestation of an
15 area three (3) times the extent of the area cleared in violation will be required as mitigation for such
16 clearing. All standards and requirements of Section 267-41.1F(3)(b)(5)(c) and (d) must be met,
17 including the preparation of forest conservation plans and the posting of the required surety and
18 covenant.

19 (4) Agriculture. Agricultural activities as otherwise permitted by the Zoning Code
20 shall meet the following additional requirements:

21 (a) By May 13, 1991, each agricultural operation in the Critical Area shall
22 have and be implementing an approved soil and water conservation plan to protect the productivity of
23 the land base, preserve or enhance water quality and conserve fish, wildlife and plant habitat, by
24 incorporating best management practices which protect areas identified as habitat protection areas and
25 adequately address the control of nutrients, animal wastes, pesticides and sediment runoff.

26 (b) Prior to the development of soil and water conservation plans as

1 required in Subsection F(5)(a), a twenty-five-foot vegetated filter strip comprised of trees with a dense
2 ground cover or a thick sod grass shall be maintained adjacent to tidal waters, tidal wetlands or
3 tributary streams. The width of this strip shall be increased by a distance of four (4) feet for every
4 one-percent increase in slope over six percent (6%). Measures approved by the Harford County Soil
5 Conservation District may be used within this filter strip and elsewhere in the Critical Area to control
6 noxious weeds such as Johnson grass, Canada thistle and multiflora rose.

7 (c) The feeding or watering of livestock is not permitted within fifty (50)
8 feet of tidal waters, tidal wetlands or tributary streams.

9 (d) Agricultural activities, including the grazing of livestock, shall not
10 disturb the stability of tidal shorelines.

11 (e) Agricultural activities shall not be expanded in the Critical Area by:

12 (1) The destruction of nontidal wetlands by diking, dredging or
13 filling operations.

14 (2) Clearing of forest or woodland on soils with a slope greater than
15 fifteen percent (15%) or on highly erodible soils.

16 (3) Clearing of lands identified as habitat protection areas, including
17 the clearing of natural vegetation within the Buffer.

18 (f) Timber harvesting operations on agricultural lands shall be done in
19 accordance with the requirement of this section.

20 (5) Forestry operations. Forests are to be considered a protective land use in the
21 Critical Area and, thus, should be managed to protect their value for plant and wildlife habitat and
22 water quality protection.

23 (a) Timber harvesting affecting one (1) acre or more of forested area in the
24 Critical Area, including timber harvesting on agricultural land and that described above in F(3)(b)(5)
25 of this section, shall be undertaken in accordance with a forest management, or forest conservation
26 plan prepared by a forester registered in the State of Maryland and approved by the Maryland Forest

1 Service based upon recommendations of the Harford County Forestry Board and the Department of
2 Planning and Zoning.

3 (1) Plans in accordance with the provisions in Appendix F of the
4 Harford County Chesapeake Bay Critical Area Management Program, as amended which do not
5 involve cutting in the Buffer or identified habitat protection areas may be conditionally approved by
6 the project forester. Copies of such conditionally approved plans shall be sent to the Forestry Board
7 and the Department of Planning and Zoning. If no adverse comments are received within two weeks
8 after submittal of the plans to the Board and the Department, such plans are formally approved.

9 (2) For plans involving disturbance to a habitat protection area, a
10 pre-harvest meeting must be held with the landowner and/or his designee, the Department of Planning
11 and Zoning and the Maryland Forest Service before approval of the timber harvest may be granted.
12 Forest management plans must be approved by the Harford County Department of Planning and
13 Zoning, the Harford County Forestry Board and the Maryland Forest Service before an applicant may
14 proceed with a timber harvest involving disturbance to a habitat protection area.

15 (3) Separate copies of forest management plans shall be submitted
16 to the Maryland Forest Service, the Department of Planning and Zoning and the Forestry Board for
17 their review and approval. Plans approved by the Department of Planning and Zoning and the
18 Forestry Board shall be submitted by these agencies to the Maryland Forest Service. If any of the
19 three reviewing agencies find the forest management plan to be inadequate, that agency must contact
20 the applicant in writing as to what additional information is required. The Maryland Forest Service
21 shall notify the applicant that the timber harvest has been approved, and the applicant may proceed
22 with the harvest.

23 (4) Forest management plans shall include measures to protect
24 surface and ground water quality, identified habitat protection areas and the continuity of plant and
25 wildlife habitat and shall include a copy of the timber harvest plan which is the plan describing a
26 proposed timber harvest that is required to be submitted to the Maryland Forest Service for a harvest

1 of timber within the State of Maryland. Forest management plans shall show all buffers and other
2 habitat protection areas. Forest management plans shall also show all proposed: stream crossings,
3 culverts, landing areas, log decks, stockpile areas, skidder trails and haul roads to the nearest public
4 road, and the limits of disturbance.

5 (b) Sediment control plans shall be developed for all timber harvesting in
6 the Critical Area involving five thousand (5,000) square feet or more, including those undertaken on
7 agricultural land. Such plans shall be approved by the Harford County Soil Conservation District
8 based upon recommendations of the Maryland Forest Service and the Department of Planning and
9 Zoning. Plans shall be submitted according to the procedures contained in the Forest Management
10 Guide. The timber harvesting operation covered by such plans shall be implemented in accordance
11 with the specifications contained in the document, Standard Erosion and Sediment Control Plan for
12 Forest Harvest Operations, and any additional specifications established by the Maryland Forest
13 Service.

14 (c) Timber harvesting within the Critical Area Buffer shall be subject to
15 the requirements set forth in Subsection G(4)(a)(4) of this section. Timber harvesting within the
16 Critical Area Buffer requires that a buffer management plan be included in the forest management
17 plan.

18 (6) Water-dependent facilities. Those structures associated with industrial,
19 maritime, recreational, educational or fisheries activities requiring a location at or near the shoreline
20 shall be considered water-dependent facilities and, thus, may be allowed within the Critical Area
21 Buffer, subject to the additional conditions of this subsection. An activity is water-dependent if it
22 cannot exist outside the Buffer and is dependent on the water by the intrinsic nature of its operation.

23 (a) Except as otherwise provided below, new or expanded development
24 activities or uses may be permitted in the Critical Area Buffer in IDA and LDA provided that it can
25 be shown:

26 (1) That they are water-dependent;

1 (2) That the project meets a recognized private right or public need;
2 (3) That adverse effects on water quality and fish, plant and wildlife
3 habitat are minimized; and

4 (4) That, insofar as possible, nonwater-dependent structures or
5 operations associated with water-dependent projects or activities are located outside of the Buffer.

6 (b) Expansion of an existing water dependent facility includes: expansion
7 of services, extension or construction of additional slips or piers, construction of new buildings,
8 expansion of existing impervious surfaces which increase the total impervious surfaces by more than
9 5,000 square feet, or installation of new or additional boat storage facilities. Expansion does not
10 include maintenance or repair or replacement of existing bulkheads, piers, or buildings, or
11 maintenance dredging. All new or expanded water-dependent facilities shall be located and operated
12 in accordance with the following conditions:

13 (1) The activities shall not significantly alter existing water
14 circulation patterns or salinity regimes.

15 (2) The water body upon which the facility is proposed must have
16 adequate flushing characteristics in the area for natural dispersal of and removal of pollution.

17 (3) Disturbance to wetlands, submerged aquatic vegetation or other
18 areas identified as important aquatic habitats shall be minimized.

19 (4) Adverse impacts to water quality occurring as a result of the
20 facility and associated activities, such as nonpoint source runoff, sewage discharge from land activities
21 or vessels or pollutant runoff from boat cleaning and maintenance operations, shall be minimized.

22 (5) Shellfish beds shall not be disturbed or made subject to discharge
23 which would render them unsuitable for harvesting.

24 (6) Dredging associated with the facility and associated activities
25 shall utilize the method which causes the least disturbance to water quality and aquatic and terrestrial
26 habitats in the immediate vicinity of the dredging operation or within the Critical Area.

1 (7) Dredged material shall not be placed within the Critical Area
2 Buffer or elsewhere in designated habitat protection areas except in previously approved channel
3 maintenance disposal areas or as used for shore erosion protection measures.

4 (8) Interference with the natural transport of sand shall be
5 minimized.

6 (9) Location of such facilities in or adjacent to waterfowl staging
7 and concentration areas shall be avoided to the maximum extent possible. The use of new or existing
8 water-dependent facilities in waterfowl staging and concentration areas shall be minimized during the
9 period of November through March to avoid disturbance to waterfowl wintering there or using the
10 areas as migratory staging areas.

11 (10) A building permit for any construction in or over tidal waters
12 is not valid without a concurrent state wetlands license or permit, and Sections 404/10 permits (as
13 appropriate) from the Army Corps of Engineers.

14 (11) Construction of a non-water dependent structure on new or
15 existing pilings or pier over state or private wetlands in the Critical Area shall not be permitted. New
16 boathouses located over state or private wetlands in the Critical Area shall not be permitted.
17 "Boathouse" means a structure with a roof or cover, or similar device placed over open water to
18 protect a boat or other vessel.

19 (c) All applications for new or expanded water-dependent facilities shall
20 be required to submit such pertinent information and materials as are listed in the technical document,
21 Program Requirements for Water-Dependent Facilities (Appendix I of the Harford County Chesapeake
22 Bay Critical Area Management Program, as amended) and as determined necessary by the Zoning
23 Administrator. Based on the project size and scope, environmental sensitivity of the project site and
24 potential adverse impacts to water quality, aquatic habitats or terrestrial habitats, the Zoning
25 Administrator may require a comprehensive water-dependent facility report as detailed in Appendix
26 I of the Harford County Chesapeake Bay Critical Area Management Program, as amended. It is

recommended that an applicant consult with the Department of Planning and Zoning before developing and submitting this information.

(d) Conditions relating to specific types of water-dependent uses. The development of the following water-dependent uses shall be subject to the following conditions:

(1) Commercial marinas, community marinas and piers, private piers, industrial water-dependent facilities, and other associated maritime uses, including boating, docking and storage facilities.

(a) New, commercial marinas and related maritime facilities shall not be permitted in resource conservation areas. Expansion of existing commercial marinas is allowed in RCA areas only if it is determined by the Zoning Administrator that the expansion will result in an overall improvement in water quality at the marina site or a reduction in the pollutant loading from the marina.

(b) New or expanded commercial marinas and related maritime facilities in areas designated as limited or intensely developed areas must meet the following conditions:

(i) The best management practices cited in the technical report, Program Requirements for Water-Dependent Facilities in the Critical Area (Appendix I of the Harford County Chesapeake Bay Critical Area Management Program as amended), shall be applied to the location and operation of new or expanded marinas and related maritime facilities, where applicable.

(ii) State sanitary requirements for such facilities are complied with.

(c) New or expanded community marinas and other noncommercial boating, docking and storage facilities may be located in the Critical Area Buffer if they meet the following conditions:

(i) The facilities do not offer food, fuel or other goods and services for sale and adequate sanitary facilities shall be provided.

(ii) The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded subdivision.

(iii) The facilities are associated with a residential development approved by the County for the Critical Area and are consistent with all the standards and regulations for the Critical Area as set forth in this section.

(iv) Any disturbance of the Critical Area Buffer is the minimum necessary to provide a single point of access to the proposed facilities.

(v) If community piers or slips are provided as part of the new development, private piers in the development shall not be permitted.

(vi) The number of slips or piers permitted at the facility shall be the lesser of a and b below:

a. One (1) slip for each fifty (50) feet of shoreline in a subdivision in the intensely and limited development areas and one (1) slip for each three hundred (300) feet of shoreline in a subdivision in the resource conservation area; or

b. A density of slips or piers, to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Platted Lots or Dwellings

in the Critical Area

Slips and Dwellings

Up to 15

1 for each lot

16 to 40

15 or 75%, whichever is greater

41 to 100

30 or 50%, whichever is greater

101 to 300

50 or 25%, whichever is greater

Over 300

75 or 15%, whichever is greater

(d) No structure connected to the shoreline, such as a dock,

1 pier or boathouse, shall extend outward from the mean high water line more than twenty-five percent
2 (25%) of the distance to the mean high water line on the opposite shore or more than two hundred fifty
3 (250) feet, whichever is less, nor shall it extend into an existing navigational channel.

4 (e) New or expanded private water dependent facilities for
5 residential lots must meet the following conditions:

6 [(i) A minimum length of 50 ft. of waterfront is
7 required for construction of a new or expanded pier.]

8 [(ii)(i) New or expanded private water dependent
9 facilities will accommodate no more than 4 boats.

10 [(iii)(ii) Non-water dependent facilities shall not
11 be constructed on piers.

12 (f) New, expanded or redeveloped industrial or port-related
13 facilities and the replacement of these facilities may be permitted only in those portions of IDA
14 exempted from the Critical Area Buffer and are subject to the provisions in Section F(6)(a).

15 (2) Public beaches or other public water-oriented recreation or
16 education areas. Public beaches or other public water-oriented recreation or education areas, including
17 but not limited to publicly owned boat launching and docking facilities and fishing piers, are allowed
18 in the Critical Area Buffer, provided that the following conditions are met:

19 (a) Adequate sanitary facilities shall be provided.

20 (b) Service facilities shall be located outside the Buffer.

21 (c) Permeable surfaces shall be used as the primary
22 surfacing material if no degradation of groundwater would result.

23 (d) Disturbance to natural vegetation shall be minimized.

24 (e) Habitat Protection areas shall be protected as consistent
25 with provisions in Section G below.

26 (f) Areas for passive recreation such as nature study,

1 hunting and fishing, and for education may be permitted in the Buffer, if nonwater-dependent
2 structures or facilities associated with these projects are located outside of the Buffer.

3 (3) Water-dependent scientific research and fishery-related facilities.
4 Water-dependent scientific research facilities operated by governmental agencies or educational
5 institutions and commercial water-dependent fisheries facilities, such as structures for crab-shedding,
6 fish off-loading, docks and shore-based facilities necessary for fisheries activities, can be located in
7 the Critical Area Buffer, provided that associated non-water-dependent structures or facilities are
8 located outside the Buffer.

9 (7) Surface mining.

10 (a) The establishment of new surface mining operations within the Critical
11 Area shall be prohibited.

12 (b) Existing operations, including roads, accessory improvements,
13 equipment and storage areas, may be continued within the Critical Area, provided that all such
14 operations shall be conducted in a manner which:

15 (1) Does not adversely impact water quality, identified habitat
16 protection areas or contiguous properties.

17 (2) Permits the rapid reclamation of the site, including any wash
18 pond, when the operation has terminated.

19 (3) Retains the Critical Area Buffer of natural vegetation between
20 the operation and tidal waters, tidal wetlands and tributary streams.

21 (c) The expansion of existing sand and gravel operations in the Critical
22 Area shall be reviewed and may be permitted as a special exception. Prior to accepting any application
23 for Board of Appeals review, the Zoning Administrator shall review the application and shall forward
24 the application to the Board only upon making findings that such expansion shall have met the
25 following conditions.

1 (1) The operation shall not have an adverse impact on identified
2 habitat protection areas.

3 (2) The operation shall not be located on lands which are within one
4 hundred (100) feet of the mean high water line of tidal waters, tidal wetlands or the edge of streams.

5 (3) The operation shall not be located on land with highly erodible
6 soils.

7 (4) The operation shall not be permitted if the mining activity would
8 prevent the use of the site for agricultural or forestry purposes for more than twenty-five (25) years.

9 (5) Wash plants, including ponds, spoil piles, related equipment,
10 roads, parking areas and other impervious surfaces, shall not be located within the Critical Area
11 Buffer.

12 (6) An adequate reclamation plan has been developed.

13 (8) Shore erosion control measures. All development activities conducted on lands
14 immediately adjacent to tidal waters or where existing developments are experiencing shoreline erosion
15 problems shall be required to meet the following standards regarding the control of shoreline erosion:

16 (a) Nonstructural measures (i.e., vegetative stabilization, regrading, etc.)
17 for controlling shore erosion shall be used wherever possible in order to conserve and protect plant,
18 fish and wildlife habitat.

19 (b) Where structural measures must be used, stone revetments or rip rap
20 shall be used whenever possible to conserve fish and plant habitat. Bulkheads and other structural
21 measures shall be used only where the use of revetments is infeasible or where their use is needed as
22 part of a water-dependent facility.

23 (c) Erosion control plan. Where structural measures must be used, these
24 must be established as specified in an erosion control plan approved by the Department of Planning
25 and Zoning. The approved plan must be kept on the project site and be available for inspection upon
26 request of the Zoning Inspector during the construction of the erosion control measures. An approved

1 plan is not valid without all state and federal permits and licenses required to conduct such erosion
2 control measures. The erosion control plan contains a site sketch of the existing shoreline and a site
3 sketch of the proposed control measures. The erosion control plan also contains a brief description
4 of the proposed methods and materials. The information required by the Army Corps of Engineers
5 and Maryland Department of Natural Resources/Nontidal Wetlands Division for a 404 joint permit
6 application is sufficient for submission as an erosion control plan.

7 (9) Natural Parks. The development and use of areas designated as natural parks
8 shall recognize the limited ability of the natural systems to handle human impacts. The following
9 standards shall apply to the development and use of such areas:

10 (a) The ability of a specific site to accommodate human disturbance on a
11 daily or seasonal basis shall be considered in the design of visitor use facilities for natural parks areas.

12 (b) The Critical Area Buffer shall be maintained in the development of any
13 natural parks site. Trees or other suitable vegetation shall be planted within areas of the Buffer which
14 are presently unvegetated.

15 (c) All areas listed as identified habitat protection areas in §267-4 shall be
16 protected on a natural park site.

17 (d) Forest cover on the site shall be maintained to the maximum extent
18 feasible.

19 (e) All publicly owned lands leased for agricultural activities shall have
20 current soil and water conservation plans.

21 G. Habitat protection areas.

22 (1) The purpose of this subsection is to ensure protection for the following types
23 of areas with significant resource value, called "habitat protection areas," no matter where they are
24 located within the Critical Area.

25 (2) The following areas of significant natural value are classified "habitat protection
26 areas" and are so designated on each Zoning Map Overlay or herein defined:

1 (a) Critical Area Buffer. An area a minimum one hundred (100) feet in
2 width as measured from the mean high water line of tidal waters, tidal wetlands and tributary streams
3 shall be established and maintained in a natural condition. The Critical Area Buffer is expanded
4 beyond 100 feet to include the following contiguous sensitive areas:

5 (1) Hydric soils, highly erodible soils, wetlands or other aquatic
6 habitats, and steep slopes.

7 (2) Steep slopes are defined as slopes which equal or exceed fifteen
8 percent (15%) slope. Steep slopes shall be measured by transects spaced a minimum of 35 feet apart
9 along the base of the slope. Transects measuring steep slopes shall be run perpendicular to the slope
10 beginning at the base of the slope and shall measure slopes with a minimum of 35' run increments up
11 the slope to the top of the slope or the boundary of the Critical Area, whichever is less. In the case
12 of steep slopes within or contiguous to the Critical Area Buffer, the Buffer is additionally expanded
13 beyond the expansions for the above-listed sensitive areas four (4) feet for every one percent (1%) of
14 slope as averaged over the contiguous steeply sloped area or to the top of the contiguous steeply sloped
15 area, whichever is greater.

16 (b) Nontidal wetlands. Those areas which meet the definition of nontidal
17 wetlands as set forth in §267-4 (Harford County Code 1986, as amended), both mapped and located
18 by field survey. A minimum area of forty thousand (40,000) square feet is hereby established for
19 designation as a nontidal wetlands, is otherwise identified as a habitat protection area in this section
20 or is shown to be hydrologically connected through surface or subsurface flow to streams and tidal
21 waters.

22 (c) Habitats of state-designated threatened or endangered species or species
23 in need of conservation, natural heritage areas and habitats of local significance.

24 (d) Colonial waterbird nesting sites.

25 (e) Riparian forests and other forested areas utilized as breeding habitat by
26 forest-interior-dwelling species.

1 (f) Anadromous fish propagation waters.

2 (g) Historic waterfowl staging and concentration areas in tidal waters,
3 tributary streams, or tidal and nontidal wetlands.

4 (3) General provisions.

5 (a) Development activities or other land disturbances, including commercial
6 tree harvesting and agricultural activities, are prohibited within the boundaries of an identified habitat
7 protection area unless the Zoning Administrator certifies that the location of the activities and/or the
8 limitations and restrictions placed on them will avoid adverse impacts on the water quality protection
9 and plant and wildlife habitat values of the area or to the species dependent upon such areas.

10 (b) The location of roads, bridges or utilities shall be prohibited within the
11 boundaries of a habitat protection area unless there is no [physically feasible] REASONABLE
12 alternative, as determined by the Zoning Administrator in consultation with the Director of the
13 Department of Public Works, in which case they shall be located, designed, constructed and
14 maintained to provide maximum erosion protection, to minimize adverse effects on wildlife, aquatic
15 life and their habitats and to maintain hydrologic processes and water quality.

16 (c) All development activities that must cross or otherwise affect streams
17 shall be designed to:

18 (1) Retain tree canopy so as to maintain stream water temperatures
19 within normal variation;

20 (2) Provide a natural substrate for streambeds; and

21 (3) Minimize adverse water quality and quantity impacts of
22 stormwater.

23 (4) Specific provisions. Activities affecting particular habitat protection areas shall
24 comply with the following requirements:

25 (a) Critical Area Buffer.

26 (1) The Buffer shall be maintained in natural vegetation and may

1 include planted native vegetation where necessary to protect, stabilize or enhance the shoreline. In the
2 case of new development where the Buffer is not entirely established in woody vegetation, the Buffer
3 shall be planted according to the standards set forth in the Forest Management Guide for buffer
4 plantings.

5 (2) New development activities, including redevelopment activities
6 and including structures, under-ground petroleum product storage tanks, roads, parking areas and other
7 impervious surfaces, mining and related facilities or septic systems (and other disposal systems), may
8 not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities
9 as approved in accordance with Subsection F(6) of this section. Replacement of existing under-ground
10 petroleum product storage tanks shall be with above-ground tanks.

11 (3) Where agricultural use of lands within the area of the Critical
12 Area Buffer ceases and the lands are proposed to be converted to other uses, the Critical Area Buffer
13 shall be established. Establishment of the buffer shall include the establishment of appropriate forest
14 vegetation as specified in the Forest Management Guide. Appropriate surety and covenant shall also
15 be required as specified in Subsection F(3)(b)(5)(d) of this section.

16 (4) For any commercial timber harvesting of trees by selection or
17 for any cutting or clearing of land within the Critical Area Buffer, a Buffer management plan shall be
18 prepared by a registered forester and approved by the Maryland Forest Service based upon
19 recommendations of the Harford County Forestry Board and the Harford County Department of
20 Planning and Zoning. Cutting or clearing operations specified in such plans shall be conducted in
21 accordance with the following requirements:

22 (a) Selective cutting may be permitted to within fifty (50)
23 feet of the mean high water line of tidal waters, perennial tributary streams and tidal wetlands.

24 (b) Nontidal wetlands and other identified habitat protection
25 areas shall not be disturbed.

1 (c) Disturbance to stream banks and shorelines shall be
2 avoided.

3 (d) The area disturbed or cut shall be replanted or allowed
4 to regenerate in a manner that assures the availability of cover and breeding sites for wildlife and
5 reestablishes the wildlife corridor function of the Buffer.

6 (e) The cutting shall not create logging roads and skid trails
7 within the Buffer.

8 (5) The cutting of trees or removal of natural vegetation may be
9 permitted in the Critical Area Buffer where necessary to provide access to private piers or to install
10 or construct a shore erosion protection device or measure or a water-dependent facility, provided that
11 the device, measure or facility has received all necessary state and federal permits.

12 (6) Individual trees may be cut for personal use, provided that this
13 cutting does not impair the water quality or existing habitat value or other functions of the Buffer, and
14 provided that the trees are replaced on an equal basis for each tree cut, as approved by the Department
15 of Planning and Zoning. Planting specifications for replaced trees are given in Appendix F of the
16 Harford County Chesapeake Bay Critical Area Management Program, as amended.

17 (7) Individual trees may be removed which are in danger of falling
18 and causing damage to dwellings or other structures or which are in danger of falling and therefore
19 causing the blockage of streams or resulting in accelerated shore erosion. Individual trees removed
20 must be replaced on an equal basis for each tree cut, as approved by the Department of Planning and
21 Zoning.

22 (8) Horticultural practices may be used in the Buffer to maintain
23 the health of individual trees.

24 (9) Other cutting techniques may be undertaken within the Buffer
25 under the advice and guidance of the Departments of Agriculture and Natural Resources, if necessary
26 to preserve the forest from extensive pest or disease infestation or threat from fire.

1 (10) Buffer Exempt Areas. The following provisions apply to
2 shoreline areas that have been identified as Buffer Exempt Areas in the Harford County Critical Area
3 Program as shown on the Buffer Exempt Area Maps attached hereto and incorporated hereby by
4 reference. Buffer Exempt Areas are those lots of record as of December 1, 1985 where the pattern
5 of residential, industrial, commercial or recreational development prevents the Buffer from fulfilling
6 its intended purposes as stated in COMAR 27.01.09..01.B. for these Buffer Exempt Areas,
7 construction or placement of new or accessory structures, minor additions and associated new
8 impervious surfaces on developed lots or parcels is permitted provided that:

9 (a) Development does not impact any other Habitat
10 Protection Area;

11 (b) Variances to other setback requirements have been
12 considered before additional development within 100 feet of mean high tide is approved;

13 (c) New development and redevelopment in the Buffer
14 Exempt Area shall be located as far from the edge of tidal waters, tidal wetlands and tributary streams
15 as possible, and the removal of existing vegetation shall be the minimum necessary;

16 (d) When any structure within the Buffer Exempt Area is
17 removed or destroyed, it may be replaced per (c) above, but in no case shall any portion of it be
18 relocated shoreward of the existing building footprint;

19 (e) Except for development associated with water dependent
20 facilities, any proposed structure, addition and associated impervious surface area constructed within
21 the Buffer Exempt Area shall not, in the aggregate, exceed an area greater than 1,000 square feet, and
22 within the LDA, the expansion of existing structures shall not increase the total area of impervious
23 surfaces to more than twenty-five percent (25%) of the total area of the parcel or lot whichever is less;

24 (f) New impervious surfaces located within the Buffer
25 Exempt Area shall be required to offset for such development as follows:

1 (I) The area shoreward of the new development or
2 redevelopment shall be established and maintained in native trees, shrubs and ground cover material,
3 [and] OR

4 (ii) Native trees and shrubs of an area twice the
5 extent of the new impervious surface created in the Buffer Exempt Area must be established on the site
6 in accordance with a landscaping plan approved by the Zoning Administrator, or

7 (iii) If the required planting, or any portion of the
8 required planting, can not be accomplished on site, or offsite within the Critical Area, as determined
9 by the Zoning Administrator, the applicant shall pay a fee in lieu of \$1.20 per square foot for the area
10 to be planted.

11 (iv) The County shall establish regional areas for
12 plantings and/or stormwater management facilities to fulfill the water quality and wildlife habitat
13 functions of the Critical Area Buffer for those areas which have been exempted from the Buffer
14 Exempt Area provisions using the fee in lieu paid. Monies contributed under this section shall be
15 deposited in a separate account, and shall be used for site identification, acquisition, design,
16 preparation and planting of vegetation at selected regional water quality and wildlife improvement
17 areas, and shall not revert to the General Fund.

18 (b) Nontidal wetlands.

19 (1) Development activities shall not be permitted in nontidal
20 wetlands, except for permitted development associated with water-dependent facilities as listed in
21 Subsection F(7) of this section.

22 (2) A seventy-five-foot Buffer shall be established adjacent to
23 nontidal wetlands.

24 (3) Existing farm ponds and other existing man-made bodies of
25 water for the purpose of impounding water for agriculture, water supply, recreation or waterfowl
26 habitat are specifically excluded from coverage by the provisions of this district.

1 (4) Development activities in the drainage areas to nontidal wetlands
2 shall not adversely affect the quality or quantity of surface or subsurface flow to the nontidal wetland
3 so as to adversely affect its water quality and protection of fish, plant or wildlife habitat value.

4 (5) The location of stormwater management measures is allowed
5 in nontidal wetlands only if the Zoning Administrator determines that there is no other technically
6 feasible location and that the water quality benefits of the measures outweigh the adverse impacts on
7 water quality and plant and wildlife habitat values of the nontidal wetlands affected. In determining
8 the adverse impacts of the location of such facilities, consideration can be given to the compensatory
9 value of mitigation measures proposed to replace the lost water quality and habitat value of the affected
10 nontidal wetlands.

11 (c) Habitats of state-designated threatened or endangered species or species
12 in need of conservation, designated natural heritage areas and habitats of local significance.

13 (1) Development activity and other land disturbances shall be
14 prohibited in state-designated natural heritage areas, state-designated habitats of threatened and
15 endangered species and species in need of conservation or identified habitats of local significance.
16 Subject to the review of a site-specific study prepared in consultation with the Maryland Fish, Heritage
17 and Wildlife Administration and the Zoning Administrator may approve development activities or
18 disturbances if it can be shown that the proposed activities will not have or cause adverse impacts on
19 the identified habitats.

20 (2) Forest management plans and soil and water conservation plans
21 developed for forestry or agricultural operations within such protection areas shall include measures
22 to protect the integrity of these habitats.

23 (d) Colonial waterbird nesting sites.

24 (1) A minimum one-fourth mile protection area buffer shall be
25 established around any identified colonial waterbird nesting sites unless, subject to the review of a
26 site-specific study prepared in conjunction with the Maryland Fish, Heritage and Wildlife

1 Administration, it can be shown that development activity or disturbances will not have or cause
2 adverse impacts on the identified habitats. Any development activities or other disturbances which are
3 allowed should not occur during the nest-building and incubation periods, approximately February
4 through April.

5 (2) Noise from construction or development activities should be
6 minimized during the breeding season of February through April in areas adjacent to the one-fourth
7 mile protection area buffer in order to avoid adverse impacts on nesting colonial waterbirds. The
8 applicant is required to contact the Wildlife Resource Conservation Service of the Department of
9 Natural Resources for information on the specific breeding seasons.

10 (e) Riparian forests and other forested areas utilized as breeding habitat by
11 forest interior dwelling species. The following management practices shall be followed in the case of
12 development, forest operations or other activities in areas identified as breeding habitat for
13 forest-interior-dwelling species in accordance with the procedures specified in the technical report, A
14 Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area. (Appendix N of the
15 Harford County Chesapeake Bay Critical Area Management Program):

16 (1) Minimize disturbance during the May-August breeding season.

17 (2) Locate development or other activities that would cause
18 disturbance to the forested areas such as roads, utility line corridors, structures and intensive timber
19 harvesting on the periphery of the site.

20 (3) To the maximum extent feasible, retain the forest canopy and
21 trees and shrubs underneath the canopy. A timber harvest within forest interior dwelling species
22 habitat shall not open the canopy by more than 30%.

23 (4) Timber harvesting shall be undertaken utilizing techniques which
24 help to maintain or improve habitat for forest interior dwelling species. The State of Maryland Forest
25 Service shall be consulted for advice on the use of proper techniques prior to any timber harvesting
26 operations.

1 (f) Anadromous fish propagation waters. The following management
2 measures shall apply to any streams identified as anadromous fish propagation waters:

3 (1) The installation or introduction of concrete rip rap or other
4 artificial surfaces onto the bottom of natural streams shall be prohibited unless it can be demonstrated
5 that water quality and fisheries habitat can be improved.

6 (2) Channelization or other physical alterations which may change
7 the course or circulation of a stream shall be prohibited.

8 (3) Construction or placement of dams or other structures that
9 would interfere with or prevent the movement of spawning fish or larval forms in streams shall be
10 prohibited.

11 (4) The construction, repair or maintenance activities associated
12 with bridges or other stream crossings or with utilities and roads, which involve disturbance within
13 the Critical Area Buffer or which occur in streams, shall be prohibited between March 1 and June 15.

14 (5) All proposed in-stream construction projects shall maintain the
15 natural stream channel bottom and predevelopment conditions.

16 H. Variances. Variances from the provisions of this section may only be granted if, due
17 to special features of a site or other circumstances, implementation of this section or a literal
18 enforcement of its provisions would result in unwarranted hardship to an applicant. All applications
19 for variances shall be reviewed by the Zoning Administrator for conformance with applicable
20 provisions of this section, and a written report shall be provided to the Board of Appeals. In granting
21 a variance, the Board shall issue written findings demonstrating that the requested approval complies
22 with each of the following conditions:

23 (1) That a literal interpretation of the provisions of this section will deprive the
24 applicant of rights commonly enjoyed by other properties in similar geographic and land use
25 management areas within the Critical Area.

1 (2) That the granting of a variance will not confer upon the applicant any special
2 privilege that would be denied by this section to other lands or structures within the Critical Area.

3 (3) That the variance request is not based upon conditions or circumstances which
4 are the result of actions by the applicant, nor does the request arise from any condition relating to land
5 or building use, either permitted or nonconforming, on any neighboring property.

6 (4) That the granting of a variance will not adversely affect water quality or
7 adversely impact fish, wildlife or plant habitat within the Critical Area, and the granting of the
8 variance will be in harmony with the purpose and intent of this section.

9 (5) That all identified Habitat Protection Areas on or adjacent to the site have been
10 protected by the proposed development and implementation of either on-site or off-site programs.

11 (6) That the growth allocation for the County will not be exceeded by the granting
12 of the variance.

13 (7) That the variance will not be substantially detrimental to adjacent properties or
14 will not materially impair the purpose of this part 1 or the public interest.

15 (8) All applications for variance requests shall be filed in writing in accordance
16 with Section 267-9.D. of the Zoning Code. Notice of all variance requests and copies of applications
17 filed in accordance with this section shall be sent to the Chesapeake Bay Critical Area Commission
18 within ten (10) working days of filing with the Department of Planning and Zoning. A copy of the
19 recommendation of the hearing examiner or of the Board in acting on the variance shall be promptly
20 sent to the Commission.

21 I. Special exceptions. All projects requiring approval as special exceptions within the
22 Critical Area must meet the standards of this section. The Zoning Administrator may require such
23 additional information, studies or documentation deemed necessary to ensure that applicable
24 requirements of this district are met. Applications will not be considered complete for processing until
25 all information as required by the Zoning Administrator has been received.

26 J. Nonconforming uses and structures. Subject to those requirements governing

1 nonconforming uses or structures contained in §267-20 of this Code, any use or structure in existence
2 as of the date of the enactment of this section shall be allowed to continue as originally built and
3 utilized. Any intensification or expansion of such existing nonconforming uses or structures shall only
4 be allowed subject to the approval of a variance along with all necessary findings, as described in
5 Subsection H of this section.

6 K. Grandfathering provisions. Notwithstanding the density provisions of Subsection
7 F(3)(c) of this section, the following development activities shall be allowed in the Critical Area,
8 provided that the development activity conforms to all applicable provisions for the protection of
9 identified habitat protection areas, for the development of water-dependent facilities; and for adequate
10 stormwater management measures including the limitation of impervious surfaces in LDA in
11 accordance with F(3)(b) of this section:

12 (1) Construction of a single-family dwelling on an undeveloped, legal parcel of land
13 or lot of record which existed as of December 1, 1985.

14 (2) Construction of subdivisions that received final approval prior to June 1, 1984,
15 provided that lots not individually owned are consolidated or reconfigured to comply with the
16 provisions of this section to the maximum extent possible.

17 (3) Construction of subdivisions which received final approval between June 1,
18 1984, and December 1, 1985.

19 (4) Construction of subdivisions which received final approval after December 1,
20 1985, and prior to the date of approval of this section. Such subdivisions shall be consistent with the
21 provisions of this section, or the development of these areas must utilize a portion of the County's
22 growth allocation.

23 (5) The expansion by no more than fifty percent (50%) of commercial uses on
24 parcels designated as limited development areas because they did not meet the minimum twenty-acre
25 size required for IDA designation.

26 L. Amendments to management area boundaries. As defined in this section, the

1 boundaries shown on the Critical Area maps depicting the Critical Area land use management areas
2 (IDA, LDA, RCA) may require amendment from time to time. All such amendments or changes shall
3 be reviewed in accordance with the following procedures and shall conform to the required standards
4 as outlined in this subsection:

5 (1) General procedures.

6 (a) The County Council may propose changes or amendments to the
7 boundaries as shown on the Critical Area maps. The basis for approval of such amendments shall be
8 due to:

9 (1) A mistake in the original designation of a management area; or

10 (2) The periodic review of the overall management program; or

11 (3) A request for a growth allocation.

12 (b) All such proposed amendments shall be reviewed in accordance with
13 the procedures and standards of this subsection.

14 (c) Application submittal. All applications for amendments shall be
15 reviewed on an annual basis. Applications shall be submitted in the following manner:

16 (1) Amendments involving a growth allocation request shall be
17 submitted to the Department of Planning and Zoning by June 1. The Department of Planning and
18 Zoning shall hold a pre-application meeting with the applicant, and shall notify the applicant in writing
19 of the sufficiency of their application within thirty (30) days of receipt of the application. The
20 Department of Planning and Zoning shall present a report with a recommendation on the proposed
21 amendment to the Planning Advisory Board (PAB) and the Environmental Advisory Board (EAB)
22 within ninety (90) days of the determination of a complete application. The PAB and EAB shall
23 transmit their recommendations on the proposed amendment to the County Council within ninety (90)
24 days of receipt of the Planning and Zoning staff report. The Department of Planning and Zoning shall
25 present a staff report with a recommendation on the amendment to the County Council concurrent with
26 the PAB recommendation.

1 (2) All other amendment requests shall be submitted to the
2 Department of Planning and Zoning by January 1. The Department of Planning and Zoning shall hold
3 a pre-application meeting with the applicant, and shall notify the applicant in writing of the sufficiency
4 of their application within thirty (30) days of receipt of the application. The Department of Planning
5 and Zoning shall present a report with a recommendation on the proposed amendment to the Planning
6 Advisory Board (PAB) and the Environmental Advisory Board (EAB) within ninety (90) days of the
7 determination of a complete application. The PAB and EAB shall transmit their recommendations on
8 the proposed amendment to the County Council within ninety (90) days of receipt of the Planning and
9 Zoning staff report. The Department of Planning and Zoning shall present a staff report with a
10 recommendation on the amendment to the County Council concurrent with the PAB recommendation.

11 (3) If the Department of Planning and Zoning determines that an
12 application is insufficient, the applicant shall submit whatever additional information the Department
13 requires within thirty (30) calendar days from the time of notification of insufficiency. If the required
14 information is not submitted within thirty (30) days, the application shall be considered void.

15 (4) The County Council shall hold a public hearing on the proposed
16 amendment within sixty (60) calendar days following receipt of the Planning Advisory Board
17 recommendation. Notice of the date, time and place of the hearing shall be published at least one (1)
18 time in at least two newspapers published in the County at least two (2) weeks prior to the hearing
19 date. In addition, notice shall also be sent a minimum of two (2) weeks prior to the hearing to all
20 property owners whose land is immediately adjacent to or lies wholly or in part within the proposed
21 amendment area. At any time after the hearing, the Council may approve or deny these proposed
22 amendments by resolution.

23 (5) All amendments approved by the Council shall be forwarded
24 to the Critical Area commission within thirty (30) calendar days of the Council's final action. No
25 amendment shall be considered final pending action by the State of Maryland Critical Area
26 Commission.

(d) Information required. At a minimum, all applications for amendments shall include the following information:

(1) The proposed boundaries of the amendment request showing the existing and proposed boundaries of the management area.

(2) A written justification describing how the proposed amendment conforms to the objectives of the County's Critical Area Management Program and addresses the required findings for the management area where the project is to be located as specified below.

(a) The Zoning Administrator shall require additional materials as may be necessary for the review of the proposed amendments. For those amendments involving a growth allocation request, the information required for concept plan or preliminary plan approval as listed in the Subdivision Regulations shall be submitted, including factors listed in Subsection M of this section. For amendments involving the correction of a mistake in the original designation, the applicant shall also provide a statement specifying the mistake in the original designation of a land use management area that makes the proposed amendment necessary.

(2) Fees. The following fee schedule shall apply to all applications for amendments to management area boundaries:

(a) Publication and Posting Fee.....\$200.00

(b) Filing Fee (all projects).....\$500.00

Plus \$15.00 per acre or portion of an acre within the Critical Area of Harford County.

(3) If the Council takes action to deny a growth allocation or boundary mistake argument, the applicant may not submit an application for the same request for two years following the decision unless a significant change has been made in the ownership or site conditions.

M. Expansion of intensely developed and limited development management areas.

(1) General requirements. The boundaries of the intensely developed and limited development management area, as shown on each Zoning Map Overlay, may be expanded in

1 accordance with the following procedures for use of a portion of the County's growth allocation:

2 (a) Acreage. The total area of expansion shall not exceed an area equal to
3 five percent (5%) of that portion of the total land in the County's resource conservation management
4 area that is not designated tidal wetlands. No more than one-half (1/2) of the allocated expansion shall
5 occur in areas shown in the resource conservation management area.

6 (b) Location. Expansion of the intensely developed or limited development
7 management areas may be approved subject to the following locational criteria:

8 (1) Such areas shall be located adjacent to an existing limited
9 development area or intensely developed management area.

10 (2) Such areas shall be located at least three hundred (300) feet from
11 tidal waters or tidal wetlands if the land was originally designated in the original resource conservation
12 management area, unless the Zoning Administrator certifies that a Critical Area Buffer less than three
13 hundred (300) feet in width is adequate to protect water quality and fish, plant and wildlife habitat.

14 (3) Such areas shall incorporate measures to protect water quality
15 and identified habitat protection areas located on or adjacent to the proposed expansion areas.

16 (4) Such areas shall minimize impacts to habitat protection areas
17 and lands in resource conservation management areas in proximity to such an expanded limited
18 development or intensely developed area.

19 (2) Additional requirements. All projects granted a growth allocation shall conform
20 to the following additional standards:

21 (a) All forested area removed shall be replaced on a square-footage basis
22 in accordance with the procedures specified in Section 267-41, F of the Zoning Code and the Forest
23 Management Guide. If such replacement is not feasible, an in-lieu fee must be paid to the County in
24 accordance with the procedures specified in this section.

25 (b) Pollutant loadings associated with developments granted growth
26 allocations shall be managed according to the levels required for the land use management area

1 amendment. In the case of new Intensely Developed Area, such loadings shall be reduced ten percent
2 (10%) from pre-development levels. The procedures contained in the technical report entitled
3 "Applicant's Guide for 10% Rule Compliance - Urban Stormwater Quality Guidance for the Maryland
4 Chesapeake Bay Critical Area in Intensively Developed Areas (IDA)" (Appendix C of the Harford
5 County Critical Area Management Program, as amended) shall be used to determine the amount of
6 reduction required and what specific measures are needed to meet these requirements.

7 (c) Development on slopes greater than fifteen percent (15%) as measured
8 prior to development shall be prohibited.

9 (d) Development on soils with development constraints; i.e., highly
10 erodible soils, soils with severe septic constraints, hydric soils less than forty thousand (40,000) square
11 feet in extent, and soils with hydric inclusions as listed in Table XVI shall be restricted. The Zoning
12 Administrator may permit development on such soils if adequate mitigation measures are applied to
13 address the identified constraints and to avoid significant adverse impacts on water quality or fish,
14 plant or wildlife habitats.

15 (3) Standards for review of expansion projects.

16 (a) Project Review Criteria. In addition to the requirements listed in
17 Subsections M. 1. and 2. above, all projects requesting an expansion of the IDA and LDA as a growth
18 allocation shall be reviewed and evaluated for their conformance with the following factors:

19 (1) The amount of forested area and other vegetative cover that is
20 left undisturbed and in a natural state on the site.

21 (2) Additional public improvements and the specific nature of such
22 improvements that will be provided with the proposed development (Examples of these would include
23 public access facilities to waterfront areas, acceleration of the provision of public water and sewer
24 service to areas with existing health problems, dedication of lands for public park purposes, etc.)

25 (3) Use of innovative site design and construction design features
26 to minimize the disturbance of natural areas and reduce potential impacts on habitat protection areas

1 and adjacent communities and RCA areas. These features could include, but are not limited to:

- 2 (a) The use of cluster development;
- 3 (b) The use of shallow-marsh creation stormwater
- 4 management measures;
- 5 (c) The use of buffer areas to minimize impacts on existing
- 6 habitats and wildlife corridors and protect adjacent natural and developed areas from impacts of the
- 7 proposed development;
- 8 (d) The use of appropriate landscaping plans and materials
- 9 to enhance the establishment of vegetated buffer areas on the project site.

10 (b) Annexation Areas. Any area proposed for annexation by a municipality

11 where the proposed use on the parcel requires a change in the land use management area (i.e., RCA

12 to LDA or IDA, etc.) shall be subject to all the procedures for growth allocation as specified in this

13 section.

14 N. Comprehensive review of the critical area program

15 (1) The critical area program shall be reviewed at least every four years beginning

16 with the 4-year anniversary of the program adoption, and the County Council shall propose any

17 necessary amendments to the program or its adopted maps. The basis for approval of such

18 amendments shall be due to:

- 19 (a) Updated resource inventory,
- 20 (b) Refinement of program for better consistency with the State Critical
- 21 Area criteria,
- 22 (c) Refinement of program for more effective protection of natural
- 23 resources within the Critical Area.

24 (2) General procedures. All such amendments or changes shall be reviewed in

25 accordance with the following procedures and shall conform to the required standards as outlined in

26 this subsection:

1 (a) The Department of Planning and Zoning shall submit program
2 amendments to the Planning Advisory Board (PAB) and the Environmental Advisory Board (EAB)
3 together with a summary of the reasoning for the amendments.

4 (b) Within sixty (60) days the PAB and the EAB shall transmit their
5 recommendations on the proposed amendment to the County Council.

6 (c) The County Council shall hold a public hearing on the proposed
7 amendment within sixty (60) calendar days following receipt of the Planning Advisory Board
8 recommendation. Notice of the date, time and place of the hearing shall be published at least one (1)
9 time in at least two newspapers published in the County at least two (2) weeks prior to the hearing
10 date. In addition, notice shall also be sent a minimum of two (2) weeks prior to the hearing to all
11 property owners whose land lies wholly or in part within the proposed amendment area for map
12 amendments. At any time after the hearing, the Council must approve or deny these proposed
13 amendments by resolution.

14 (d) All amendments approved by the Council shall be forwarded to the
15 Critical Area Commission within thirty (30) calendar days of the Council's final action. No
16 amendment shall be considered final until approved by the State of Maryland Critical Area
17 Commission.

18 O. Civil penalty for zoning violation.

19 (1) The local County legislative body may provide a civil penalty for a zoning
20 violation, which shall be enforced as provided in this subsection.

21 (2) The Zoning Administrator may deliver a citation to a person believed to be
22 committing a civil zoning violation. A copy of the citation shall be retained by the Zoning
23 Administrator and shall bear a certification attesting to the truth of the matters set forth. The citation
24 shall contain:

25 (a) The name and address of the person charged;

26 (b) The nature of the violation;

- (c) The place where and the time that the violation occurred;
- (d) The amount of the fine assessed;
- (e) The manner, location, and time in which the fine may be paid; and
- (f) The person's right to elect to stand trial for the violation.

(3) A preset fine, not to exceed \$500, may be imposed for each violation. The County may establish a schedule of fines for each violation and may adopt procedures for collection of these fines.

(4) A person who receives a citation may elect to stand trial for the offense by filing with the Zoning Administrator a notice of intention to stand trial. The notice shall be given at least 5 days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the Zoning Administrator shall forward to the District Court having venue, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for zoning violations shall be remitted to the County in which the zoning violation occurred.

(5) If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the owner's last known address. If the citation is not satisfied within 15 days from the date of the notice, the person is liable for an additional fine not to exceed twice the original fine. If, after 35 days, the citation is not satisfied, the Zoning Administrator may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.

(6) Adjudication of a violation under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(7) In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Article 23a, § 3 (b)

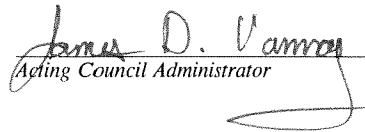
1 (8) through (15) of the Code. The governing body of any county may authorize the County Attorney
2 to prosecute a civil zoning violation.

3 (8) If a person is found by the District Court to have committed a civil zoning
4 violation, the person shall be liable for the costs of the proceedings in the District Court.

5 Section 2. And Be It Further Enacted, That this Act shall take effect 60 calendar days from the
6 date it becomes law.

EFFECTIVE: May 19, 1997

*The Council Administrator does hereby certify that fifteen (15)
copies of this Bill are immediately available for distribution to the public
and the press.*


Acting Council Administrator

HARFORD COUNTY BILL NO. 97-6(Brief Title) Chesapeake Bay Critical Area Overlay District

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED

James D. Vannoy
Acting Council Administrator

Joanne S. Parrott
President of the Council

Date March 11, 1997Date March 11, 1997

BY THE COUNCIL

Read the third time.

Passed: LSD 97-8 (March 11, 1997)

Failed of Passage: _____

By Order

James D. Vannoy
Acting Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 13th day of March, 1997 at 3:00 p. m.

James D. Vannoy
Acting Council Administrator

BY THE EXECUTIVE

Eileen M. Redmann
COUNTY EXECUTIVE

APPROVED: Date March 18, 1997

BY THE COUNCIL

This Bill (No. 97-6), having been approved by the Executive and returned to the Council, becomes law on March 18, 1997.

James D. Vannoy
Acting Council Administrator

EFFECTIVE DATE: May 19, 1997